

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**DONALD DALE MILLER,**

**Defendant.**

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**CRIMINAL NO. 3:09-CR-14**

**INDICTMENT**

**RECEIVED  
2009 MAY 24 AM 11:39  
CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF IOWA**

"For the record upon the oath of office and bond of this court  
(clerk, judge, district attorney and all other officers of the court)"

**MOTION TO DISMISS  
No Oath**

**COMES NOW, Donald-Dale: Miller, agent for the accused, DONALD DALE MILLER, by special  
appearance in challenge of jurisdiction, to show the court a lack of authority, as follows:**

- 1.) Upon common understanding a grand jury indictment is presented into court upon the oath(s) of the grand jurors.**
- 2.) An inspection of the indictment in this case reveals that there is no statement asserting or attesting to any oath or affirmation by the grand jurors on this document.**
- 3.) In the absence of an attestation concerning grand juror's oath on the indictment, it must be presumed that no oath or oaths were administered and that the indictment is not presented upon oath; an indictment without oath is a nullity and void.**

**THEREFORE: Upon the above said reasons this case must be dismissed.**

Dated 3rd day of May, 2009.

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Donald-Dale: Miller  
Donald-Dale: Miller, agent/secured party  
For DONALD DALE MILLER, accused

**ACKNOWLEDGEMENT OF NOTARY**

Iowa State ]  
Washington County ]

On the 3rd day of May, Two Thousand Nine, before me, Ezra M Miller, a Notary, Personally appeared, Donald-Dale: Miller, personally known to me (or proved to me on the basis of satisfactory evidence of identification) to be a person whose name is subscribed to the within instrument(s) and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed that instrument.

Witnessed, my hand and official seal.

Ezra M Miller

SEAL

My Commission Expires: August 1, 2011



**CERTIFICATE OF SERVICE**

The undersigned certifies that the above document was served on all parties in the above cause by depositing one copy in the U.S. Mail, postage prepaid, in an envelope addressed to:

CRAIG P. GAUMER, Assistant United States Attorney, U. S. Attorney's Office, at 110 East Court Avenue, Ste 286, Des Moines, Iowa, 50309, email: [craig.gaumer@USDOJ.GOV](mailto:craig.gaumer@USDOJ.GOV), 515 473-9300, Fax: 515 473-9292;

JOSEPH D. HERROLD, (Counsel only) FEDERAL PUBLIC DEFENDERS OFFICE, 400 LOCUST STREET, SUITE 340, DES MOINES, IOWA 50309-2353, 515 309 9610, Fax: 515 309 9625, Email [joe\\_herrod@fd.org](mailto:joe_herrod@fd.org) ; this 3rd day of May, 2009.

Donald-Dale: Miller  
Donald-Dale: Miller

1248 120TH ST  
WAYLAND IA.  
319-256-3800